

EXHIBIT 9

OFFICE OF THE COMPTROLLER CITY OF NEW YORK
NOTICE OF CLAIM

TO: OFFICE OF THE COMPTROLLER DIVISION OF LAW - RM.1225 South
1 CENTRE STREET
NEW YORK, N.Y. 10007
TELEPHONE # (212) 669-4736

CLAIMANT INFORMATION

CLAIMANT'S NAME: David L. Pakter
STREET ADDRESS: 900 Park Avenue, 27 - D
CITY: New York, NY 10075
SOC. SEC. # or TAX I.D. #: 071-36-3213

CLAIM INFORMATION

CITY AGENCY INVOLVED: (i) New York City Department of Education (NYC DOE),
(ii) NYC DOE Human Resources Department, Lawrence Becker & Judith Rivera,
(iii) Office of Corporation Counsel, Lawrence R. Martinez & Philip Oliveri

NATURE OF CLAIM: (ATTACH ADDITIONAL SHEET(S) OF PAPER, IF NECESSARY):

Conduct Upon Which this Claim is Based Occurred / Started in or about Nov. 2009 and which were only confirmed on or about Feb. 3, 2010 upon Claimants receipt of a W-2 which confirms the wrongful acts as alleged below.

1. Unlawful Retaliation by withholding of W-2 Reported salary and paychecks for Exercise of 1st Amendment Rights
2. Violation of 1st and 14th Amendment Rights
3. Aiding & Abetting a Conspiracy to Retaliate for Exercise of 1st Amendment Rights
4. Aiding & Abetting a Conspiracy to Violate 1st & 14th Amendment Rights
5. Theft and/or Larceny in Relation to W - 2 salary & Issued Paychecks
6. Fraud in W-2s, Issued Paychecks and Time Sheets
7. Infliction of Emotional Distress
8. Claim for Other Wrongful Conduct as recognized under Amalfitano v Rosenberg

TOTAL AMOUNT CLAIMED: \$

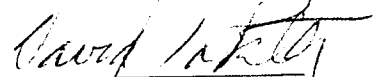
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BREAKDOWN OF AMOUNTS AND SPECIFY ITEMS: (ATTACH ADDITIONAL SHEET(S),
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<u>ITEM</u>	<u>AMOUNT</u>
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2 checks issued in 2010 but never transmitted to Claimant	\$ 1,667.57
Unauthorized under payments of \$13,339.68 beginning with Non-transmitted 12/15/09 check	\$ 13,339.68
Retaliation for Exercise of 1 st Amendment Rights - #1 above	\$500,000.00
Violation of 1 st & 14 th Amendment Rights - #2 above	\$500,000.00
Aiding & Abetting Conspiracy to Retaliation - #3 above	\$ 1 million

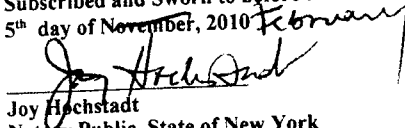
Aiding & Abetting Conspiracy to Violate Rights - #4 above	\$ 1 million
Theft and/or Larceny - # 5 above	\$ 50,000.00
Fraud in W-2s, Issued Paycheks and Timesheets - #6 above	\$300,000.00
Infliction of Emotional Distress - #7 above	\$600,000.00
Wrongful Conduct under Amalfitano v Rosenberg - #8 above	\$12 million

PLEASE ATTACH COPIES OF SUPPORTING DOCUMENTATION, PREVIOUS CORRESPONDENCE, INVOICES, ETC.

CLAIMANT'S SIGNATURE:


David Pakter

Subscribed and Sworn to before me this
5th day of November, 2010 *February*


Joy Hochstadt
Notary Public, State of New York
No. 02HO6128726
Qualified in New York County
Commission Expires 6/13/2013

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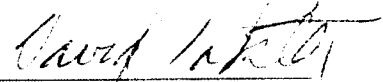
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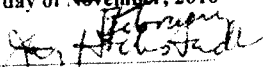
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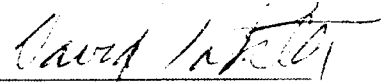
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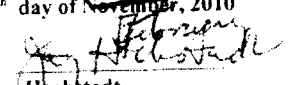
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EXHIBIT 10

Page 2364

1 David Pakter - 8-5-2009
 2 offered it, because I knew that it was out
 3 there somewhere. So, for the purposes, you
 4 say, a penalty, if nothing else, but -- so --
 5 yes -- so entered District's Exhibit Number
 6 Twenty-three.
 7 (Department's Twenty-three is
 8 admitted in evidence.)
 9 MR. OLIVERI: Thank you.
 10 THE HEARING OFFICER: You may
 11 call your witness.
 12 MR. OLIVERI: Okay. Thank
 13 you. The Department will be calling Judith
 14 Rivera as witness.
 15 (Off-the-record discussion)
 16 THE HEARING OFFICER: Okay.
 17 I'm going to swear the witness. If you -- you
 18 don't need to stand. Just please raise your
 19 right hand. Do you swear the testimony you're
 20 about to give is the truth, the whole truth,
 21 and nothing but the truth?
 22 MS. RIVERA: I do.
 23 JUDITH RIVERA; Sworn.
 24 THE HEARING OFFICER: All

Page 2365

1 David Pakter - 8-5-2009
 2 right. My apologies for making you wait this
 3 morning.
 4 THE WITNESS: That's okay.
 5 THE HEARING OFFICER: We had
 6 a bunch of procedural evidentiary issues we had
 7 to deal with, but we got you on.
 8 THE WITNESS: Okay.
 9 THE HEARING OFFICER: Thank
 10 you very much. Mr. Oliveri, your witness.
 11 MR. OLIVERI: Thank you.
 12 DIRECT EXAMINATION
 13 BY MR. OLIVERI:
 14 Q. Good afternoon. Ms. Rivera,
 15 could you please state your full name on the
 16 record?
 17 A. Judith A. Rivera.
 18 Q. And where are you currently
 19 employed?
 20 A. At the Manhattan Integrated
 21 Service Center.
 22 Q. And how long have you been
 23 employed there?
 24 A. I've been employed there

Page 2366

1 Rivera - Direct - Oliveri
 2 since 2003. But I've been with the Department
 3 of Ed since 1990.
 4 Q. Okay. And what is your role
 5 and -- what capacity do you work?
 6 A. My current position is Deputy
 7 Director of Human Resources. I'm responsible
 8 for overseeing staff that provide H.R. services
 9 to all the schools in Manhattan.
 10 Q. And what are your principal
 11 duties and responsibilities as deputy director?
 12 A. Again, I oversee the staff in
 13 terms of the services they provide to all the
 14 schools in Manhattan with regards to staffing
 15 their schools, assisting with any human
 16 resources needs, as well as providing H.R.
 17 support to the Manhattan Integrated Service
 18 Center.
 19 MR. OLIVERI: Okay. Do you
 20 know --
 21 THE HEARING OFFICER: Phil,
 22 just -- just -- pardon me. It's a
 23 technicality, but was she doing the same thing
 24 during this point in time?

Page 2367

1 Rivera - Direct - Oliveri
 2 MR. OLIVERI: Thank you.
 3 THE HEARING OFFICER: Yeah.
 4 BY MR. OLIVERI: (Cont'g.)
 5 Q. Ms. Rivera, were you -- were
 6 you deputy director during the time period of
 7 2006-07?
 8 A. Yes.
 9 Q. Thank you. And do you know a
 10 respondent by the name -- do you know the
 11 Respondent, David Pakter?
 12 A. Yes.
 13 Q. Okay. And how do you know
 14 him?
 15 A. Mr. Pakter's currently one of
 16 the reassigned pedagogues.
 17 Q. Okay. You don't know him
 18 personally or on a personal basis?
 19 A. No.
 20 Q. Okay. Are -- are you aware
 21 of Chancellor's Regulation Section C-770?
 22 A. Yes.
 23 MR. OLIVERI: Okay. And
 24 could you please explain what that regulation

7 (Pages 2364 to 2367)

Page 2408

1 **Rivera - Cross - Callagy**
 2 Q. And what was your role in
 3 that?
 4 **A. Well, when Mr. Crowe was**
 5 **there -- I mean, we would discuss and we would**
 6 **review. However, because 333 7th Avenue was**
 7 **off limits, it was just reassigned to one of**
 8 **the two uptown locations.**
 9 Q. And when you say, back in
 10 '06, and specifically November of '06 --
 11 **A. Uh-huh.**
 12 Q. -- that 333 7th Avenue was
 13 off limits, you're -- do I understand you
 14 correctly that you're saying it's off limits
 15 because there had been an agreement reached
 16 with the U.F.T. about overcrowding?
 17 **A. That is correct. They --**
 18 **there was an overcrowding condition, as U.F.T.**
 19 **observed many times, then visited. And they**
 20 **even had reported where we had OSHA -- which I**
 21 **can't recall OSHA stands for -- but**
 22 **facilities -- the inspectors, to see what the**
 23 **overcrowding conditions -- I think at one**
 24 **point, we may have reached numbers near a**

Page 2409

1 **Rivera - Cross - Callagy**
 2 **hundred. And it was a conference room, so it**
 3 **was overcrowded. Uh-huh.**
 4 Q. Okay. Were you part of those
 5 discussions with the U.F.T. about the
 6 overcrowded conditions?
 7 **A. No. I was aware. I do have**
 8 **dialogue with U.F.T. representatives that come.**
 9 **Of course, they realized that it wasn't my**
 10 **decision to even have a reassignment center at**
 11 **333 7th Avenue or -- or in terms of changes had**
 12 **to be made. So discussions were taken -- took**
 13 **place at a high level.**
 14 Q. So it's your understanding --
 15 or is it your understanding that that
 16 agreement, whatever it was about the
 17 overcrowding, that the D.O.E. reached with the
 18 U.F.T. pertained to 333 at that time? It's --
 19 is it your understanding that even if a U.F.T.
 20 member specifically requested to be reassigned
 21 to 333, that the U.F.T. said that's not the
 22 fact?
 23 **A. As long as we kept our**
 24 **numbers underneath fifty, U.F.T., to the best**

Page 2410

1 **Rivera - Cross - Callagy**
 2 **of my knowledge, did not make an issue or bring**
 3 **to my attention for reassigned staff member**
 4 **being reassigned to a location uptown.**
 5 Q. Didn't -- didn't you have
 6 individuals at 333 at that time in '06 --
 7 **A. Uh-huh.**
 8 Q. -- actually assigned to
 9 certain administrative and administrative duties
 10 within the building?
 11 **A. There may have been a couple.**
 12 **I can't say how many or -- but there --**
 13 **throughout the course of the existence in 2003,**
 14 **there have been a few that have been reassigned**
 15 **to other offices, yes.**
 16 Q. And is that in part because
 17 the individual requested to have some
 18 assignment like that?
 19 **A. No. Actually it was the**
 20 **request of certain supervisors from certain**
 21 **divisions that have requested some additional**
 22 **support, whether it was -- you know, answering**
 23 **the phones and so forth.**
 24 Q. But you didn't -- you didn't

Page 2411

1 **Rivera - Cross - Callagy**
 2 **force reassigned teachers to fulfill those**
 3 **duties, did you?**
 4 **A. Oh, absolutely not.**
 5 Q. Yeah, so you -- you asked --
 6 you came to this opinion and some people said,
 7 yeah, I'll do that. Is that how it happened?
 8 **A. They may have been -- at**
 9 **times where maybe one of two had indicated that**
 10 **if there was any assistance needed or -- or**
 11 **support --**
 12 Q. Uh-huh.
 13 **A. -- instead of saying, oh, we**
 14 **were just aware of the individual and we would**
 15 **reassign.**
 16 Q. Now do they count against the
 17 fifty?
 18 **A. No. No. If they were**
 19 **reassigned -- let's say for instance, to**
 20 **another floor, they were not part of the fifty,**
 21 **so physically we -- we physically noted how**
 22 **many were physically were in the building --**
 23 Q. So --
 24 **A. -- and we didn't want to**

18 (Pages 2408 to 2411)

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08/05/2009, In the matter of David Pakter

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Page 2412

1 **Rivera - Cross - Callagy**
 2 **surpass fifty.**
 3 Q. -- back in November of '06,
 4 regardless of the timing of the
 5 U.F.T./D.O.E. --
 6 **A. Uh-huh.**
 7 Q. -- you know, agreement about
 8 overcrowding, you still had the capacity to
 9 reassign teachers should you have had a need to
 10 do so to fulfill other duties within the
 11 building?
 12 **A. I believe so.**
 13 Q. Okay.
 14 **A. Uh-huh.**
 15 Q. Now Chancellor's Reg C-770
 16 also states that "during the period of
 17 suspension, all individuals are expected to
 18 perform duties appropriate to their regular
 19 assignments insofar as possible". Is that
 20 consistent with your understanding of the reg?
 21 **A. Correct.**
 22 Q. Okay. What duties did the
 23 teachers assigned to 125th Street have, if you
 24 know?

Page 2413

1 **Rivera - Cross - Callagy**
 2 **A. To the best of my knowledge,**
 3 **they sit in the reassignment area, whether**
 4 **they're reading a book or just --**
 5 Q. But did they have a duty?
 6 **A. No, that's not their duty,**
 7 **unless -- I mean, again, with our different**
 8 **reassignment centers, it's kind of an awkward**
 9 **situation. We really don't assign duties and**
 10 **responsibility unless, again, there's a request**
 11 **from the division to assign someone.**
 12 Q. Well, clearly that's --
 13 that's in violation of the reg on its face, is
 14 it not, that you don't assign any kind of
 15 duties, do you?
 16 **A. Under the circumstances, it**
 17 **is difficult to assign the number of reassigned**
 18 **staff. We have few duties and responsibilities**
 19 **for them to perform.**
 20 Q. So you're saying that you're
 21 in conformity with the regulation, in your
 22 judgment, because it's not possible to assign
 23 duties to these reassigned teachers at 125th
 24 Street?

Page 2414

1 **Rivera - Cross - Callagy**
 2 **A. In my judgment, yes.**
 3 Q. Okay. And why is it not
 4 possible?
 5 **A. Because the numbers are**
 6 **monumental for us to serve in that capacity or**
 7 **reassign people to different divisions or even**
 8 **within our offices. There are certain offices,**
 9 **due to confidentiality matters, we would not**
 10 **reassign reassigned staff members and so forth.**
 11 Q. But -- but the Chancellor's
 12 Reg goes on to state the duties will depend, of
 13 course says the Chancellor --
 14 **A. Uh-huh.**
 15 Q. -- "upon the circumstances
 16 surrounding the suspension".
 17 **A. Yeah, I understand what the**
 18 **Chancellor Regulation says, but again --**
 19 Q. But what you're saying is
 20 that it doesn't depend upon the circumstances
 21 surrounding the suspension, because anyone
 22 suspended that's sent up there does not receive
 23 a duty.
 24 **A. From the get go? No. No.**

Page 2415

1 **Rivera - Cross - Callagy**
 2 Q. That's in violation, then, of
 3 the reg, isn't it? The reg says you have to --
 4 "upon the circumstances surrounding the
 5 suspension".
 6 **A. And the circumstances by**
 7 **which exists is inappropriate for us to**
 8 **reassign staff to duties and responsibilities**
 9 **because we're unable to do so. It's not like**
 10 **they're in a classroom to teach. We don't give**
 11 **them lessons to -- to do. We're not in the**
 12 **capacity to be able to assign individuals**
 13 **duties and responsibility unless a principal**
 14 **wanted one of their reassigned staff members to**
 15 **fulfill some duties and responsibilities.**
 16 **For example, finishing grading report cards --**
 17 **I'm just using that as farfetched -- then we**
 18 **would facilitate it having the reassigned staff**
 19 **member fulfill those duties and**
 20 **responsibilities.**
 21 Q. Is part of the impossibility
 22 that you're referring to in terms of the
 23 assignment of duties --
 24 **A. Uh-huh.**

19 (Pages 2412 to 2415)

Page 2416

1 **Rivera - Cross - Callagy**
 2 Q. -- is part of that that the
 3 Harlem office is physically far removed from
 4 the regional site at 333?
 5 **A. No.**
 6 Q. Is part of it that you don't
 7 actually have a supervisor on site at -- at --
 8 up in -- at 125th Street, you actually don't
 9 have a supervisor on site?
 10 **A. There is an on-site**
 11 **supervisor. It's one of the supervisors that**
 12 **works out of the committee of special education**
 13 **who's our go-between person that communicates**
 14 **with my office regarding matters concerning**
 15 **reassigned staff.**
 16 Q. But that individual doesn't
 17 actually physically abide in the reassignment
 18 room at 125th Street, does he or she?
 19 **A. No, I believe the -- I mean,**
 20 **not the reassignment -- the supervisor has a**
 21 **separate office. But the same exists at 333**
 22 **7th Avenue and my off-site location.**
 23 Q. And it's your position that
 24 it would be impossible to assign, for instance,

Page 2417

1 **Rivera - Cross - Callagy**
 2 curriculum development duties to teachers
 3 reassigned to 125th Street?
 4 **A. Right. In my position, that**
 5 **is not my responsibility to do that. Again, if**
 6 **a principal had requested, or the rating**
 7 **officer had requested, for one of their**
 8 **reassigned staff members to fulfill such duties**
 9 **and responsibilities, then we would facilitate**
 10 **that.**
 11 **Where -- there have been**
 12 **situations where we've needed, for example, a**
 13 **reassigned guidance staff -- a guidance**
 14 **counselor to fulfill duties, and we have**
 15 **facilitated that for the principal.**
 16 Q. But surely you could simply
 17 have called over to the high school at Fashion
 18 Industries and said, hey, as you know, David
 19 Pakter's now been reassigned --
 20 **A. Uh-huh.**
 21 Q. -- please provide an
 22 assignment for him so he'll have a duty to
 23 perform while he's reassigned. Nothing
 24 prevents you from doing that?

Page 2418

1 **Rivera - Cross - Callagy**
 2 **A. But that has not been**
 3 **identified as my responsibly to do that.**
 4 Q. Okay. I understand. Is it
 5 anyone's responsibility to do that, that you're
 6 aware of?
 7 **A. To the best of my knowledge,**
 8 **no.**
 9 Q. If you know, in the course of
 10 your experience as a human resources person,
 11 how have you interpreted, in your office,
 12 "suspended employees are to be assigned within
 13 their own districts or divisions"?
 14 **A. Within their own district, we**
 15 **take a look at not where the school is**
 16 **geographically located, per se, and let me --**
 17 **let me just kind of clarify it. Community**
 18 **school districts and middle schools treated**
 19 **differently from high school. Community**
 20 **schools, the elementary, middle schools are**
 21 **specifically to a district which happens to be**
 22 **their geographic --**
 23 Q. In this case, District Two,
 24 you would refer to?

Page 2419

1 **Rivera - Cross - Callagy**
 2 **A. For example -- but in -- at**
 3 **the high school level, even though it's**
 4 **geographically in District Two, we go beyond**
 5 **the geographic district, because we -- from**
 6 **human resources perspective you look at the**
 7 **seniority district. So for high schools, it's**
 8 **District Seventy-one, which is the borough of**
 9 **Manhattan.**
 10 Q. Okay. I'm wondering, in your
 11 interpretation of the Chancellor's Reg that
 12 suspended employees are to be assigned within
 13 their own districts, I understand what you just
 14 said --
 15 **A. Right.**
 16 Q. -- but why is it that -- why
 17 should they be assigned within their own
 18 district?
 19 **A. I -- in my opinion, I believe**
 20 **it's part of the contractual language, part of**
 21 **the U.F.T., because anything that happens with**
 22 **pedagogues -- and I shouldn't just say**
 23 **pedagogues, any department of -- Department of**
 24 **Ed employee, contractually -- things occur**

20 (Pages 2416 to 2419)

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1 David Pakter - 8-5-2009
 2 the last witness in here. We are going to
 3 close for today. Mr. Oliveri's going to make
 4 every attempt to try and get us some witness or
 5 witnesses for tomorrow morning, but we realize
 6 it's late in the day. He only has about an
 7 hour left to try and do anything. And he will
 8 let us know, Mr. Callagy and myself, the status
 9 of that.
 10 If he is unable to get
 11 anybody, I'm open to coming whatever time
 12 counsel, both you guys agree. I mean, if you
 13 want to come early or whatever, but if not,
 14 then -- I mean, if we're not going to do
 15 anything, I would suggest just give me a time
 16 to show up, and I'll do lunch before we get
 17 here so that we can run straight.
 18 MR. OLIVERI: So could we
 19 agree that if I'm able to bring in someone, I
 20 will e-mail and call, and we'll meet -- you
 21 know, I guess at ten.
 22 THE HEARING OFFICER: Right,
 23 okay.
 24 MR. OLIVERI: If I can't

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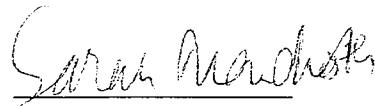
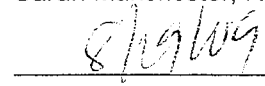
1 David Pakter - 8-5-2009
 2 bring anyone else in, one?
 3 MR. CALLAGY: One o'clock is
 4 when --
 5 THE HEARING OFFICER: You
 6 don't have anything else we need to go over or
 7 do anything -- anything else paper-wise, we
 8 don't need to do, right?
 9 MR. CALLAGY: I don't
 10 think -- not a whole lot, you know, I mean --
 11 THE HEARING OFFICER: Then
 12 maybe we ought to show up at twelve thirty or
 13 so.
 14 MR. CALLAGY: Twelve thirty.
 15 THE HEARING OFFICER: Twelve
 16 thirty?
 17 MR. OLIVERI: I'll be here.
 18 THE HEARING OFFICER: Give us
 19 a little --
 20 MR. OLIVERI: Sure.
 21 MR. CALLAGY: If -- if --
 22 MR. OLIVERI: If I don't send
 23 an e-mail tonight --
 24 MR. CALLAGY: I'll call you.

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1 David Pakter - 8-5-2009
 2 MR. OLIVERI: -- I'll try. I
 3 want to get as many as I can.
 4 MR. CALLAGY: I don't get
 5 home until --
 6 MR. PAKTER: Wait and
 7 call --.
 8 THE HEARING OFFICER: Okay.
 9 Thank you for your time. Sarah, thank you very
 10 much for sitting there patiently while we were
 11 doing this stuff.
 12 (The hearing adjourned at
 13 4:24 p.m.)
 14
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1 David Pakter - 8-5-2009
 2 I, Sarah Manchester, do hereby certify that the
 3 foregoing was taken by me, in the cause, at the
 4 time and place, and in the presence of counsel,
 5 as stated in the caption hereto, at Page 2343
 6 hereof; that before giving testimony said
 7 witness(es) was (were) duly sworn to testify
 8 the truth, the whole truth and nothing but the
 9 truth; that the foregoing typewritten
 10 transcription, consisting of pages number 2343
 11 to 2522, inclusive, is a true record prepared
 12 by me and completed by Associated Reporters
 13 Int'l., Inc. from materials provided by me.

14
 15 
 16 Sarah Manchester, Reporter
 17
 18  Date
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 21
 22
 23
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